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Attorneys for Defendant
EDWARDS VACUUM LLC

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION**

ANDREW WILLIAMS,

Plaintiff,

v.

EDWARDS VACUUM LLC,

Defendant.

Case No.: 3:21-CV-00543-SB

**DEFENDANT’S ANSWER,
AFFIRMATIVE DEFENSES, AND
COUNTERCLAIM**

JURY TRIAL DEMANDED

For its Answer to Plaintiff’s Complaint, Defendant Edwards Vacuum LLC (“Defendant”) admits, denies, and avers as follows:

1.

Defendant denies the allegations contained in paragraph 1, 6, 7, 8, 9, 10, 12, 15, 16, 17, 18, 20, 26, 27, 28, 29, 30, 31, 32, 36, 38, 39, 42, 43, 44, 47, 48, 50, 51, 52, and 53.

2.

Defendant admits the allegations contained in paragraphs 2, 3, and 5.

3.

For answer to paragraph 4, Defendant lacks information sufficient to form a belief as to the truth of the allegations contained in the second sentence, and on that basis denies the same. Except as expressly admitted herein, Defendant denies the remaining allegations of paragraph 4.

4.

For answer to paragraphs 11, 22, and 23, Defendant lacks information sufficient to form a belief as to the truth of the allegations contained therein, and on that basis denies the allegations contained in paragraphs 11, 22, and 23.

5.

For answer to paragraphs 13, Defendant admits that Plaintiff sent an email on May 4, 2020. Except as expressly admitted herein, Defendant denies the remaining allegations of paragraph 13.

6.

For answer to paragraph 14, Defendant denies the first sentence. Defendant lacks information sufficient to form a belief as to the existence or substance of the email plaintiff purportedly sent on May 5, 2020, and on that basis denies those allegations. Except as expressly admitted herein, Defendant denies the remaining allegations of paragraph 14.

7.

For answer to paragraph 19, Defendant admits the first sentence. Except as expressly admitted herein, Defendant denies the remaining allegations of paragraph 19.

8.

Upon information and belief, Defendant admits the allegations contained in paragraph 21.

9.

For answer to paragraph 24, Defendant incorporates its answers to paragraphs 1-23 as if fully set forth herein.

10.

Paragraphs 25, 34, 35, 37, and 46 are statements of law and do not contain any factual allegations, and therefore no response is required. To the extent these statements of law suggest Defendant violated those laws, Defendant denies the allegations contained in paragraphs 25, 34, 35, 37, and 46.

11.

For answer to paragraph 33, Defendant incorporates its answers to paragraphs 1-32 as if fully set forth herein.

12.

Paragraphs 40, 41, and 49 contain legal conclusions, to which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraphs 40, 41, and 49.

13.

For answer to paragraph 45, Defendant incorporates its answers to paragraphs 1-44 as if fully set forth herein.

PLAINTIFF'S PRAYER FOR RELIEF

14.

Plaintiff's Prayer for Relief, including subparts 1 through 5, does not contain any factual allegations that require a response from Defendant. To the extent the allegations contained in the Plaintiff's Prayer for Relief assert or imply any wrongdoing by Defendant, or that Plaintiff has been damaged by Defendant and/or is entitled to any form of relief, such allegations are expressly denied.

15.

Except as expressly admitted above, Defendant denies each and every allegation in Plaintiff's Complaint and the whole thereof.

AFFIRMATIVE DEFENSES

Defendant reserves the right to modify, amend, or supplement any defense contained herein at any time. Having fully answered Plaintiff's Complaint, Defendant asserts the following defenses without waiving any arguments it may be entitled to assert concerning the burden of proof, legal presumptions, or other legal characterizations:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

16.

Plaintiff's claims are barred, in whole or in part, because Plaintiff fails to state a claim upon which relief may be granted as against Defendant with respect to one or more of Plaintiff's legal claims.

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

17.

Plaintiff's claims are barred, in whole or in part, to the extent they are based upon alleged actions occurring more than one year before he filed his lawsuit.

THIRD AFFIRMATIVE DEFENSE

(Good Faith/Legitimate Non-Retaliatory Reason)

18.

All decisions regarding Plaintiff's employment were made based on good faith, legitimate, non-retaliatory reasons, were consistent with business necessity, and were based on factors other than Plaintiff's alleged protected activity.

FOURTH AFFIRMATIVE DEFENSE

(Mixed Motives)

19.

Plaintiff's alleged protected activity was not a motivating factor in any employment decisions pertaining to him, and Defendant would have taken the same actions, if any, in the absence of any alleged impermissible factor.

FIFTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

20.

Upon information and belief, Plaintiff has failed to mitigate his damages, if any.

SIXTH AFFIRMATIVE DEFENSE

(Offset)

21.

Defendant is entitled to an offset against Plaintiff's alleged damages, if any, for any earnings since Plaintiff's discharge and/or any amounts paid to Plaintiff as a wage replacement benefit.

SEVENTH AFFIRMATIVE DEFENSE

(Reservation of Rights)

22.

Defendant reserves the right to amend this Answer as provided by the Federal Rules of Civil Procedure, including, but not limited to its right to move the Court to amend its Answer in order to assert additional defenses as may become known to it during the course of discovery.

COUNTERCLAIM FOR RELIEF

(Attorney Fees and Costs)

23.

Defendant renews its prior responses as forth above, paragraphs 1 through 22, and incorporates them herein by this reference, as if set forth fully herein.

24.

Defendant is entitled to its reasonable attorneys' fees and costs of defending and responding to Plaintiff's suit pursuant to ORS 20.077.

WHEREFORE, having fully answered Plaintiff's Complaint, and stated its defenses, Defendant requests the following relief:

1. That the Court award judgment against Plaintiff and in Defendant's favor on all claims alleged against Defendant in the Complaint;
2. That Plaintiff's Complaint be dismissed with prejudice and without any award to Plaintiff;
3. That Defendant be awarded its attorney fees, costs, and disbursements incurred as a result of defending this action; and
4. For such other and further relief as the Court deems just and proper.

Dated: April 19, 2021

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.**

By: /s/ Caroline R. Guest

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2021, I served the foregoing DEFENDANT'S ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIM on:

Matthew Zekala, OSB No. 131454
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Attorneys for
Plaintiff Andrew Williams

- by **electronic** means through the Court's eFile and Serve system.
- ☐ by **mailing** a true and correct copy to address for the persons listed above.
- ☐ by causing a true and correct copy to be **hand-delivered** to the address of each person listed above. It was contained in a sealed envelope and addressed as stated above.
- ☐ by causing a true and correct copy to be delivered **via overnight courier** to the last known address of each person listed above. It was contained in a sealed envelope, with courier fees paid, and addressed as stated above.
- ☐ by **e-mailing** a true and correct copy to the persons listed above.

s/Kai Jones
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